



## Proposed Final Fishing Regulation Changes – 2014

### Response to Public Comments

(October 4, 2013 modified version with change to Little Bitterroot Lake)

The public comment period for the 2014 Fishing Regulations was August 13-September 12, 2013. During this time, 66 comments were received, either by mail or electronically through the FWP website. The comments are summarized below for each regulation proposal followed by the FWP response to the comments and final recommendation to the Commission.

**Note:** *New language is in italics.* Deleted language is indicated by strikethrough.

### WESTERN DISTRICT

CHANGE—page 34

#### **LITTLE BITTERROOT LAKE aka Bitterroot Lake**

Salmon: 20 daily and 40 in possession, no more than 2 daily and 4 in possession over 12 inches.

*Bass: No daily or possession limit for entire year*

**PUBLIC COMMENTS:** Eight comments were received in support of this regulation change while one was in opposition. None of the eight supporters elaborated on their reasons for their support. The opposing commenter expressed the view that the two fish species live in very different habitats on the lake, apparently in reference to the FWP claim that bass are expected to predate on young and adult kokanee when they cruise the shoreline in spring and adult shoreline spawning kokanee in fall. The same commenter also felt that FWP is inconsistent with this regulation proposal because FWP is not trying to suppress bass in Echo Lake which also has both kokanee and bass.

**FWP RESPONSE AND RATIONALE:** The proposed regulation is intended to both protect the Little Bitterroot salmon fishery from illegally-introduced largemouth and smallmouth bass (first reported in 2006 and 2008, respectively), and to start educating anglers about the problems with illegal fish plants and remove incentives to illegally move fish. In response to the commenter who felt there is no habitat overlap between bass and salmon, it is true that they occupy different lake strata during summer, but there is substantial habitat overlap during spring and fall when the water is cooler and salmonids are cruising the shoreline. The Little Bitterroot kokanee fishery is important as

a fishery in itself but even more so as a brood source for two dozen other state waters that rely on stocking, including Echo Lake mentioned in the comments. Returns on the Echo Lake salmon plants are definitely lower than other lakes due to bass and perch predation, but still sufficient to maintain a limited fishery.

CHANGE—page 36

**WITHDRAWN**

#### **NORTH FORK FLATHEAD RIVER**

Closed to angling June 1 through September 30 within a 150-yard radius of the Big Creek stream mouth unless posted at a greater distance

Extended season for whitefish and catch-and-release for trout open December 1 to third Saturday in May with artificial lures and/or maggots only.

Catch-and-release for cutthroat trout.

Combined Trout: 5 daily and in possession

***Mouth of Big Creek to Blankenship Bridge*** (NOTE: This is an experimental regulation for the 2014 fishing season only).

*Combined Trout: 5 daily and in possession. Limit includes rainbow and rainbow/cutthroat hybrid trout, defined for the purposes of this temporary regulation as **any** trout (even those with an orange slash under the jaw) with as many or more spots in the front half of its body as the back half, based on a vertical line drawn through the middle of the dorsal fin to divide the fish into halves.*

NOTE: Montana/Glacier National Park boundary is the middle of the river.

**PUBLIC COMMENTS:** Out of the 17 comments received on this regulation, 11 were in support of the proposed change, while six were opposed to it. Supporters mentioned the need to provide additional public education/information about differences in identification between the two species to make sure cutthroat do not get harvested, as well as the need for proper training of creel clerks to take genetic samples and properly identify fish themselves. Those in opposition mentioned that this regulation might give unethical anglers an excuse for harvesting cutthroat trout. One comment mentioned that the hybrids are already established above Big Creek, rendering this proposal moot. Another commenter felt that this new regulation would draw more bait and treble hook anglers to the North Fork and lead to more dead fish from hooking mortality. Several commenters expressed skepticism that anglers could effectively identify hybrids by their spotting patterns, and one mentioned a similar regulation in Idaho that was not successful. This same commenter also offered that 1) the hybrids are more likely to have more spots on the back half of the body as the front half, making the spotting criterion ineffective; and 2) the hybrids are most likely to be in the North Fork during spring high water when they are not available to anglers for harvest. Two commenters in support of this change and one in opposition also felt that requiring the use of single, barbless hooks would better protect cutthroat and bull trout.

**FWP RESPONSE AND RATIONALE:** FWP appreciates that most anglers who commented on this regulation recognize the problem with expanding hybridization and maintaining genetically pure stocks of westslope cutthroat. In response to the comment

about the seasonal presence of hybrid trout in the North Fork, FWP believes the data show that both adult and subadult hybrids are more likely to be resident fish and therefore available for harvest throughout the angling season. Several other commenters were concerned with the subjective nature of the proposed cutthroat definition, arguing it could either allow harvest of cutthroats or still required releasing of some hybrids. The definition was intended to be conservative, and would require release of fish with more cutthroat genes. The comments on terminal gear restrictions were extraneous to this proposal. There is no indication that the lack of gear restrictions is impacting the fishery at this time.

This regulation was proposed as a short test section for one year with monitoring to test compliance and refine the definition as needed for broader application. However, there was insufficient coordination with Glacier National Park which manages the eastern half of the North Fork Flathead River and GNP could not support the proposal at this time. Therefore, the proposal is withdrawn but discussions will continue with GNP and other regions to improve this proposal for future consideration.

#### NEW

##### ***SILVER LAKE (near Anaconda)***

*Closed to fishing July 1 through September 30 within a 50 yard radius of the mouth of Storm Lake Creek*

#### NEW

##### ***STORM LAKE CREEK (tributary to Silver Lake near Anaconda)***

*Closed to fishing July 1 through September 30 from the Silver Lake diversion structure located near the stream mouth down to where the stream enters Silver Lake*

#### CHANGE—page 40

##### ***WARM SPRINGS CREEK (near Anaconda)***

Open entire year on Warm Springs Wildlife Management Area (WMA). See Warm Springs WMA for additional regulations.

Open from third Saturday in May through November 30 outside the Warm Springs WMA.

Extended season downstream of Myers Dam: catch-and-release for trout December 1 to third Saturday in May with artificial lures only.

*Closed to fishing July 1 through September 30 from Myers Dam downstream 50 yards.*

**PUBLIC COMMENTS ON BULL TROUT CLOSURES (SILVER LAKE, STORM LAKE CREEK, WARM SPRINGS CREEK):** Two commenters supported all of these closures, while a third commenter supported just the Warm Springs Creek closure. One

comment was received in opposition to the Silver Lake proposal. One of the supporters suggested that the size of the closure areas should be enlarged. The opposing commenter claimed that the closure on Silver Lake at the mouth of Storm Lake Creek is unnecessary because it is hardly ever fished and that there is limited access elsewhere on the lake.

**FWP RESPONSE AND RATIONALE:** Further discussions with the opposing commenter indicated that because public access around the lake is very limited, the closure would take away too much of the shoreline for fishing. Upon further evaluation, FWP has determined that 100 yards is more than needed to protect bull trout staging at the mouth of Storm Lake Creek. Therefore, the closure distance for the Silver Lake regulation has been reduced from 100 yards to 50 yards, which should still provide adequate protection for the bull trout. Because no other comments were received in opposition, and because of the need to protect bull trout, the proposed changes on Warm Spring Creek and Storm Lake Creek remain the same.

## CENTRAL DISTRICT

CHANGE – pages 57 and 64

### **CANYON FERRY RESERVOIR**

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession any size.

Yellow perch: ~~15~~ 10 daily and in possession

Walleye: ~~10~~ 12 daily, ~~no more than 4 over 16 inches, and only 1 over 28~~ 25 inches.

Possession limit is twice the daily limit.

Northern pike: No limit

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice.

**PUBLIC COMMENTS:** A total of 19 individuals and one organized group provided comment on the Canyon Ferry regulation proposals. Twelve commenters were in support of the proposed change for the perch bag limit, while 3 were opposed. Ten commenters were in favor of increasing the walleye bag limit, while 6 were opposed. Many of those opposed to the change in the perch bag limit felt that there are more effective ways to rebuild the population, including supplementation through stocking, improving habitat with structure (Christmas trees), or reducing predators (such as pike, rainbow trout, pelicans). Those opposed to the changes for walleye had a variety of reasons: 1) some preferred to have an alternate, more conservative bag limit than what is proposed or feel the change would produce an undesirable size structure; 2) some felt that walleye are being unfairly singled out as predators on perch, and more emphasis should be placed on controlling pike, trout and pelicans; 3) some felt that the change should not be made until the walleye triggers in the Management Plan are exceeded.

**FWP RESPONSE AND RATIONALE:** The request for supplemental stocking of yellow perch has been made before, and examined by FWP, but is not deemed to be cost effective at this time. Limiting factors for perch stocking include an available source and means to transport enough sexually mature perch to effectively increase abundance; lack of hatchery space to raise enough perch fingerlings or fry, or a reliable egg source to rear perch; and

disease concerns with transplanting perch across the state.

FWP recognizes the value that improved habitat would have on the perch population, and has worked with local sporting groups to use recycled Christmas trees for yellow perch spawning habitat since the 1990s. Expanding the Christmas tree project is limited by availability of Christmas trees, cost of hauling to the site, and availability of labor. FWP is continuing to work with area groups to expand the Christmas tree project. A cost effective alternative to using Christmas trees has not yet been found.

Contrary to the view held by several of the commenters, FWP data shows that walleye are the primary predators on yellow perch. While it is true that nearly all species present in the reservoir consume yellow perch at some stage in their life cycle, diet studies show walleye are the biggest consumers of perch and prefer them even if other forage is available or more prevalent. Diet and consumption studies on Canyon Ferry have estimated that the walleye population consumes over 750,000 pounds of yellow perch annually, while cormorants can consume 150,000 pounds of perch annually. Since perch abundance has declined, the incidence of perch in the cormorant diet has declined substantially, with no yellow perch observed during the last cormorant diet survey (2006). While walleye show a distinct preference for perch in the diet, cormorants are more opportunistic and consume fewer perch when other prey items (i.e., suckers, trout, stonecat, and dace) are available. Yellow perch are rarely observed in rainbow trout diet studies. The few perch observed in rainbow trout stomachs were only in the largest rainbow trout (over 22 inches total length). Yellow perch are a prevalent part of burbot diet, but burbot abundance in Canyon Ferry has declined to historically low levels. Like cormorants, pelicans are opportunistic feeders and diet analysis has shown that carp and crayfish comprise almost all of the pelican diet. Northern pike have historically been present at very low levels, but abundance has increased in recent years. The Upper Missouri River Reservoirs Management Plan outlines strategies to reduce pike abundance should numbers increase substantially. In sum, increasing walleye harvest will have a much more substantial impact to the perch population than reducing abundance of other species which also consume perch.

Several commenters expressed the view that the walleye bag limits not be changed until Management Plan triggers are tripped. The Management Plan, however, does also allow flexibility to reduce predator abundance (walleye) when lower perch triggers are tripped. FWP has chosen to take this approach at this time because walleye abundance has been trending upward, and waiting until upper walleye triggers are tripped to raise the walleye limit would further expose the perch population to predation. Data suggests that increasing the walleye bag limit from 10 to 12 fish daily and adjusting the length limit to 1 fish over 25 inches will increase walleye harvest approximately 4%, but have less impact on size structure than implementing a higher bag limit.

Based on the responses provided above to the comments, and the need to modify management actions as dictated by the management plan, FWP will continue to propose these regulation changes to the Commission.

CHANGE – pages 60, 61 and 64

## **HAUSER RESERVOIR**

### **Including Canyon Ferry Dam tailwater and Lake Helena**

Combined Trout and Salmon: 5 trout and salmon daily and in combination and 10 trout and salmon in possession in any combination.

Walleye: 20 daily, only 1 over 25 ~~28~~ inches. Possession limit is twice the daily limit.

Yellow perch: ~~25~~ 10 daily and ~~no possession limit~~. *in possession, except from April 1 through June 30, only 1 fish daily and in possession, 14 inch minimum.*

Northern pike: No limit

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**PUBLIC COMMENTS:** Nine individuals and one organized group provided comments specific to the Hauser regulations: 7 were in support of the proposed reduction in the perch bag limit, while 2 were opposed. Six people were in support of the length limit change for walleye, while 2 were opposed. One who was opposed to the smaller bag limit for perch thought it would be a disincentive and cause more anglers to quit fishing for them; the other commenter said his group would oppose the change to the perch limit until a time that FWP did something about the other predators. The lack of action to control the predators was also the reason this same commenter opposed the size limit change for walleye. The other person in opposition to the walleye regulation was in favor of a more restrictive bag limit (10).

**FWP RESPONSE AND RATIONALE:** The primary reason for this proposed change is that the yellow perch abundance is currently below the management trigger as outlined in the Upper Missouri River Reservoirs Fisheries Management Plan. Even though predation by walleye is likely more of a limiting factor than angler harvest, perch abundance is so low that FWP feels it is necessary to lower the angler bag limit (from 25 to 10 fish daily). Furthermore, even though Hauser Reservoir sees much lower angler pressure than Canyon Ferry or Holter, short periods of high angler harvest in the spring on Lake Helena (part of Hauser Reservoir) may be having localized effects to the perch population. This is why the seasonal length restriction from April 1 to June 30 was proposed to preserve this spawning stock of perch.

Implementing low yellow perch bag limits may discourage some anglers from fishing Hauser, as one commenter suggested, but the Management Plan directs conservative measures to be implemented when lower management triggers are tripped. Adjusting angler bag limits is a cost effective tool for preserving the perch population. The Management Plan also provides flexibility to increase the perch bag limit should abundance increase above 7 perch per net.

The 20 fish walleye limit was previously implemented to use angler harvest to decrease walleye abundance, but angler catch rates have not been high enough for this regulation to have the desired result. Other than a short window on Lake Helena in the spring, walleye harvest levels have not been high enough to reduce population abundance. The walleye

length limit change to only 1 fish over 25 inches was proposed to preserve a trophy component to the fishery and establish consistency through the reservoir system. FWP is exploring other opportunities to increase angler harvest rates (e.g., use a trap at the Causeway bridge to increase opportunity for shoreline anglers).

Commenters who opposed these changes because FWP is not doing more to control other predators are asked to review the FWP response to the Canyon Ferry regulation changes.

Based on the responses provided above to the comments, and the need to modify management actions as dictated by the management plan, FWP will continue to propose these regulation changes to the Commission.

#### CHANGE – page 60 and 64

#### **HOLTER RESERVOIR**

##### **Up to American Bar Gulch (approx. 4.6 miles downstream from Hauser Dam)**

Catch-and-release for brown trout, except anglers 14 years of age and younger may take 1 brown trout daily and in possession, any size.

Combined Trout and Salmon: 5 rainbow trout and salmon daily in any combination and 10 rainbow trout and salmon in possession in any combination.

Yellow perch: 25 daily and no possession limit.

Walleye: 10 daily, only 1 over 25 ~~28~~ inches. ~~and all fish between 20 and 28 inches must be released.~~ Possession limit is twice the daily limit.

Northern pike: No limit

Hook and Line/Setlines: 6 lines with 2 hooks per line through the ice only.

**PUBLIC COMMENTS:** Eleven individuals and 1 organized group provided comments on the proposed changes to the walleye regulation; 8 were in support of the change and 4 were opposed. The reasons given by those opposed to this change included: 1) a belief that the current slot limit works well; 2) FWP should not be changing walleye regulations until they do something to control the other predators on perch; and 3) perch numbers may be up this year on Holter, and if true would negate the need for this proposal to increase walleye harvest.

**FWP RESPONSE AND RATIONALE:** Holter walleye abundance has been trending upward and tripped the upper management trigger in 2012. Yellow perch numbers are also trending upward in Holter, but abundance levels are currently above the lower trigger point which means that no change in yellow perch management direction is required at this time. Therefore, even though this walleye regulation change was proposed in response to walleye abundance tripping the upper triggers, reducing walleye abundance should also have the beneficial effect of reducing perch predation by walleye.

As walleye abundance has increased, walleye growth has decreased to the point that the 20-28 inch slot limit is no longer effective at influencing size structure as intended. Population modeling suggested that by changing the slot limit from releasing all fish between 20-28 inches to only 1 fish over 25 inches has the desired effect of reducing walleye numbers,

while maintaining a desirable size structure, and that is why this proposal has been made. Modeling scenarios showed that different slot limits could positively influence size structure, but would not have the desired effect of reducing population numbers. Other scenarios, such as increased bag limits, showed that increased harvest could adequately decrease population abundance, but would negatively affect population size structure.

Commenters who opposed these changes because FWP is not doing more to control other predators are asked to review the FWP response to the Canyon Ferry regulation changes.

Based on the responses provided above to the comments, and the need to modify management actions as dictated by the management plan, FWP will continue to propose this regulation change to the Commission.

#### NEW

#### ***PELICAN POINT POND #1 (largest pond on Pelican Point FAS--near Cascade)***

*Northern Pike: No Limit*

**PUBLIC COMMENTS:** No comments were received specific to this regulation

**FWP RESPONSE AND RATIONALE:** Northern pike were illegally introduced into Pelican Point Pond #1, probably within the past 3-4 years. Pike abundance has increased substantially in 2013, and their continued presence and increase in numbers will threaten the existing family-friendly fishery of largemouth bass and yellow perch and the second tier of the fishery as well that includes trout. The “No Limit” proposal will serve as a disincentive to those who conduct illegal stocking activities by using anglers to suppress pike numbers and thereby eliminate any sustained sport fishing opportunity. Because no opposition was expressed relative to this proposal, FWP will continue to propose this change to the Commission.

**OTHER COMMENTS:** Eighteen individuals provided comments that were not specific to any of the changes proposed by FWP. Twelve of the commenters voiced general support for all of the regulation proposals. Some specific proposals include:

- 1) Simplifying the regulations
- 2) Allow 3 hooks per line for wet flies
- 3) Requiring that all non-native fish be kept
- 4) Urging FWP to start a marketing campaign to increase awareness of illegal fish introductions.
- 5) Providing more information in the regulations booklet on Children’s Fishing Waters and standardizing the daily bag limit at those waters.
- 6) Enhance bait fish populations, rather than adjust bag limits of species that consume the bait.

**FWP RESPONSE AND RATIONALE:** **Comment 1:** FWP has, and will continue to look for opportunities to simplify fishing regulations. **Comment 4:** FWP will be initiating a variety of measures beginning this year to do more to educate the public about the adverse impacts from illegal introductions. **Comments 2,3,5:** These are regulation proposals that will be forwarded to Regional offices for their evaluation. If they are found to have merit, they will be considered for proposed changes to the Commission in future years. **Comment 6:** FWP is currently opposed to the introduction of new forage fish species into the Missouri River Reservoirs. The commenter is encouraged to read Appendix C of the Upper Missouri River Reservoir Fisheries Management Plan, 2010-2019 for a detailed discussion of this issue.